

**BEFORE THE
STATE BOARD OF MEDIATION
STATE OF MISSOURI**

LOCAL UNION NO. 453, INTERNATIONAL)	
BROTHERHOOD OF ELECTRICAL WORKERS,)	
)	
vs.)	Public Case No. 76-016
)	
CITY UTILITIES, CITY OF SPRINGFIELD,)	
MISSOURI.)	

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION**

FINDINGS OF FACT

This matter appears before the State Board of Mediation upon a Petition being filed by the International Brotherhood of Electrical Workers, Local Union No. 453 (hereinafter referred to as "Petitioner") wherein they request this Board to make a determination of an appropriate bargaining unit and majority representative status for certain employees employed by City Utilities of the City of Springfield, Missouri (hereinafter referred to as "Respondent").

Specifically, the Petitioner seeks to represent all full-time City Utilities' employees listed as plant clerical, laboratory technicians, and janitorial at all outlying locations, but excluding the main office. The requested unit consists of approximately thirty (30) employees.

It is the position of Respondent that all employees within the Departments of Transportation and Water be excluded from an appropriate unit for the reason that they do not share a clear and identifiable community of interest with the other employees at issue in this matter. Respondent further believes that these individuals should be

excluded because of the fact that a majority of employees in each of these two departments are presently represented by other labor unions.

Respondent contends further that certain clerks in the Electric, Water, and Transportation Departments should be excluded because the tasks they perform are confidential in nature.

The parties have agreed that the position designated as "building maintenance security" be excluded from an appropriate bargaining unit. The parties have also agreed to exclude those employees designated as part-time or temporary.

The Respondent is a completely independent division of the City of Springfield, Missouri, with approximately 800 employees. It operates through four separate departments - Electric, Gas, Transportation, and Water, serving the citizenry of Springfield and adjacent areas. Each of the four service departments operate from several different physically located installations of different types performing different functions, except as to the Transportation Department which operates out of one installation, separate from any other department.

It should be mentioned that certain administrative functions are presently conducted from a central office building. The employees at this location perform duties pertaining to such matters as accounting, executive direction, finance, engineering, etc. These employees are not represented nor are they being petitioned for in this matter.

The Petitioner presently represents approximately 320 to 330 individuals which includes the line employees in both the Electric and Gas Departments whose work is performed at outlying installations or in the field. It also represents storeroom employees at various central store locations and operating employees at one Water Department installation, Fullbright Pumping Station.

The Department of Transportation operates from a facility located at the corner of Boonville and Division Street, Springfield, Missouri, and is separate and apart from any other installation of Respondent. The employees within this Department perform two primary duties; the operation of the municipal bus system and a shop operation for the maintenance of all Respondent's vehicles. The Amalgamated Transit Union represents 75 to 80 people within the Department which includes all bus drivers and shop employees (except janitor and clerks).

Laborer's Union Local No. 676, represents approximately 45 to 50 people in the Water Department which includes all construction, maintenance and operation employees, except those at the Fullbright Station.

A main cause of concern in this case is whether certain persons occupy positions which should be classified as confidential and therefore excluded from an appropriate unit. Respondent contends that the following clerk positions are confidential:

- James River Power Plant (Ferdinand Wolpert);
- Southwest Power Plant (Reba Myers);
- Kansas Avenue Line Station (Juanita Napier);
- Main Street Line Station (Rita Holt);

- Electric Meter Department (Stanley Owen).

The position of Clerk I at the James River Power Plant, a generating facility, is held by Ferdinand Water Department. There are approximately fifty-six (56) employees at the James River facility and Mr. Wolpert serves as the only Clerk. His duties consist of keeping of time cards, recording control room information, keeping maintenance records, answering telephone, performing 90 to 95% of typing, general clerical duties. He testified he has no access to files which are kept in the supervisor's office. During his four-year employment as a Clerk he has typed one Personnel Action Form which recommended the discharge of an employee; one letter concerning promotion; and one letter concerning change of classification.

The duties performed by those individuals in the position of Clerk at the Southwest Power Plant, Kansas City Avenue Line Station, and the Main Street Line Station are similar to those performed by the Clerk at the James River facility. They type job orders, answer telephone, prepare time cards, record time spent on jobs, route work orders, distribute mail, and any other clerical duties.

The duties of the Clerk at the Electric Meter Department are to keep history cards on electric meters, separate and route service orders and to receive and dispatch trouble calls from customers who have electrical problems.

CONCLUSIONS OF LAW

Section 105.525 RSMo. 1969 states:

Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation. In the event that the appropriate administrative body or any of the bargaining units shall be aggrieved by the decision of the state board of mediation, an appeal may be had to the circuit court of the county where the administrative body is located or in the circuit court of Cole county. The state board of mediation shall use the services of the state hearing officer in all contested cases.

Section 105.500(1) RSMo. 1969 defines "appropriate unit":

A unit of employees at any plant or installation or in a craft or in a function of public body which establishes a clear and identifiable community of interest among the employees concerned.

The competent and substantial evidence upon the whole record indicates that the employees in the Electric and Gas Departments share a clear and identifiable community of interest. The evidence shows some interchange of activity between the two Departments and both Departments are engaged in the same type of function in that they provide electric and gas service. Historically the Petitioner has represented a majority of employees in both these Departments.

The employees petitioned for in the Department of Transportation are to be excluded from an appropriate unit for the reasons that historically Amalgamated Transit

Union has represented all Transportation Department employees; all employees are located in a separate installation from those petitioned for; there is no interchange of activity; this is not a similar function of a public as is the providing of gas and electric service. Therefore, these individuals do not constitute employees who fall within the term "appropriate unit" because there does not exist a clear and identifiable community of interest between these employees and the others for whom representation is sought.

The positions of Clerk within the Water Department should be excluded from an appropriate unit because historically the Laborers Union has represented all organized employees in this Department, except those at the Fullbright Pumping Station who are represented by Petitioner. It should be noted that the positions in dispute in the Water Department are not located at the Fullbright Pumping Station but at the West Calhoun location. The competent and substantial evidence indicate that there is not a clear and identifiable community of interest among these employees and the other petitioned for.

The Petitioner has argued that by the Board's excluding the aforementioned classifications from the petitioned for unit we will in essence be denying these individuals the right to be represented. This we do not find. These individuals if they so desire can petition to be included in the existing units of Transportation Department employees and Water Department employees.

The Respondent has alleged that certain classifications of Clerk in the Electric Department should be excluded because they are confidential. The evidence does not indicate this to be the fact. In order for employees to be considered as confidential they must have access to general labor relations material as a part of their duties, not merely limited accessibility and occasional filing. The evidence shows that the individuals in question infrequently typed letters of dismissal and reprimand; they do not determine, formulate or effectuate management labor policies. For these reasons Respondent's request to exclude certain individuals as confidential is denied.

DECISION

It is hereby the decision of the Board that an appropriate unit consist of all full-time employees of City Utilities of Springfield, Missouri included within the positions of full-time plant clerical, laboratory technicians, and janitorial at all outlying locations of the Electric and Gas Departments, but excluding part-time, temporary, security guards, and main office employees.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but not later than thirty (30) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period, because they were out ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible shall vote whether (or not) they desire to be represented for the purpose of exclusive recognition by International Brotherhood of Electrical Workers, Local 453, AFL-CIO.

It is hereby ordered that the City shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, within (10) days from the date of receipt of this decision, an alphabetical list of the employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Dated this 15th day of November, 1977.

MISSOURI STATE BOARD OF MEDIATION

/s/ Michael Horn
Michael Horn, Chairman

/s/ Stanley W. Cox
Stanley W. Cox, Employer Member

/s/ Richard Mantia
Richard Mantia, Labor Member